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CLERK, U.S. DISTRICT COURT

NOV - 6 2023

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CALEB L. MCGILLVARY PLAINTIFF V. NETFLIX ET AL DEFENDANTS	CIVIL ACTION NO. 23-01195-JLS-SK HON. JOSEPHINE L. STACON, U.S.D.J. HON. STEVE KIM, U.S.M.J. MOTION DATE: TO BE DETERMINED	BY: <u>rsm</u> DEPUTY
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NOTICE & MOTION FOR EXTENSION OF TIME  
FOR SERVICE UNDER FED. R. CIV. P. 4(c)

PLAINTIFF CALEB L. MCGILLVARY ("PLAINTIFF")  
HEREBY MOVES THE COURT FOR AN ORDER GRANTING  
AN EXTENSION OF TIME TO EFFECT SERVICE  
UNDER FED. R. CIV. P. 4(c). PLAINTIFF RELIES ON THE  
FOLLOWING GROUNDS BY DECLARING PURSUANT TO  
28 USC 1746:

- 1) I AM THE PRO SE PLAINTIFF IN THIS MATTER
- 2) ON AUGUST 14, 2023, THE COURT GRANTED  
ME LEAVE TO PROCEED IN FORMA PAUPERIS  
UNDER 28 USC 1915.
- 3) I SENT USM-285 FORMS FOR EACH KNOWN  
DEFENDANT TO THE CLERK, TOGETHER WITH AN  
APPLICATION TO EFFECT SERVICE BY MAIL UNDER  
RULE 4(f)(3). ON 9/7/23, THE RULE 4(f)(3)  
APPLICATION WAS FILED, BUT THE USM-285 FORMS  
WERE NOT.

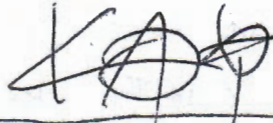
PROOF OF FILING BY PRISON MAILBOX RULE

I, CALEB L. MCGILLVARY, HEREBY DECLARE PURSUANT TO 28 USC 1746 THAT ON 10/31/23 I PLACED INTO THE INSTITUTIONAL MAILING SYSTEM HERE WHERE I'M INCARCERATED AT NJ STATE PRISON 3RD & FEDERAL STS. TRENTON, NJ 08625, WITH 1<sup>ST</sup> CLASS POSTAGE PREPAID TO BE SENT VIA USPS REGULAR MAIL; THE ORIGINAL OF MY NOTICE & MOTION FOR EXTENSION OF TIME FOR SERVICE UNDER 4(c) & PROPOSED ORDER; TO THE CLERK OF THE USDC-CD CA FOR FILING AT 255 E. TEMPLE ST, RM 180 LOS ANGELES, CA 90012.

I HEREBY INVOKER THE PRISON MAILBOX RULE.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE & ACCURATE.

EXECUTED THIS 31<sup>ST</sup> DAY OF OCTOBER, 2023



CALEB L. MCGILLVARY, PRO SE  
#122265/SBI#1023176 NJSP  
PO Box 861 TRENTON, NJ 08625



4.) I FILED MY FIRST MOTION FOR DOE DISCOVERY ON 9/5/23, WHICH THE MAGISTRATE JUDGE DENIED ON 9/21/23; & WHICH DENIAL I TIMELY OBJECTED TO & REQUESTED REVIEW UPON ON 9/27/23. ECF 35. MY SECOND MOTION FOR DOE DISCOVERY IS FORTHCOMING.

5.) I TWICE ATTEMPTED TO HAVE THE CLERK ISSUE ~~SUMMONS~~ <sup>SUMMONS</sup>, BUT WAS CITED FOR DEFICIENCIES BOTH TIMES, SEE ECF 33. DESPITE MY PRO SE & UNLEARNED STATUS, I FINALLY GOT IT RIGHT ON OCTOBER 19, 2023, SUMMONS WERE ISSUED ON 10/20/23; SEE ECF 38-55; BUT I DIDN'T RECEIVE THE SUMMONS UNTIL OCTOBER 27, 2023. THIS IS BECAUSE NJ STATE PRISON TAKES A WEEK TO PROCESS OUTGOING & INCOMING MAIL, & MAIL TAKES DAYS TO GET TO THE CLERK, & IT USUALLY TAKES AT LEAST A WEEK FOR THE CLERK TO RESPOND.

6.) ALTHOUGH UNDER 28 USC 1915(d), "THE OFFICERS OF THE COURT SHALL ISSUE & SERVE ALL PROCESS & PERFORM ALL DUTIES IN [IN FORMA PAUPERIS] CASES," I NONETHELESS FILED A REQUEST FOR SERVICE BY U.S. MARSHAL ON 10/10/23. ECF 36.

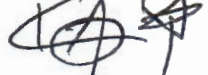
7.) ON TODAY'S DATE, I PLACED A PARCEL IN THE MAIL CONTAINING USM-285, SUMMONS, &

COPIES OF MY FIRST AMENDED COMPLAINT FOR EACH NAMED DEFENDANT IN THE INSTITUTIONAL MAILING SYSTEM WHERE I'M INCARCERATED AT NJ STATE PRISON WITH 1ST CLASS POSTAGE PREPAID TO BE SENT VIA USPS REGULAR MAIL TO THE CLERK. LIKE WITH THE SUMMONS IN "5" ABOVE, NJ STATE PRISON WILL ALMOST CERTAINLY TAKE FOREVER TO PROCESS MY OUTGOING MAIL. I HAVE BEEN MAKING DILIGENT EFFORT TO EFFECT SERVICE BY US MARSHAL UNDER 28 USC 1915(d), BUT THE LAG TIME WITH SNAIL MAIL HAS PUSHED UP ON THE CLOCK LIKE NOBODY'S BUSINESS. I'M LITERALLY FILING STUFF THE NEXT DAY AFTER RECEIVING DEFICIENCIES, & IF I WAS ELECTRONIC FILING THIS WOULD'VE BEEN TAKEN CARE OF MONTHS AGO. BUT JERSEY AINT LIKE CALIFORNIA WITH E-FILING IN PRISONS, SO I'M DOING THE BEST I CAN IN GOOD FAITH TO GET THIS DONE.

8D) LAST BUT NOT LEAST, 28 USC 1915(d) SPECIFICALLY STATES THAT THE RESPONSIBILITY IS ON THE COURT, NOT ME, TO ISSUE SUMMONS & SERVE PROCESS. ACCORDING TO THE STATUTE, I DID MY DUTY WHEN I FILED THE USM 285'S ON 9/7/23. I CONSIDER IT AN HONOR & A PRIVILEGE TO ASSIST THE COURT, BUT I HAVE NOT RELINQUISHED MY RIGHTS

UNDER 28 USC 1915(d) BY DOING SO,

9) FOR ALL THE FOREGOING REASONS, GOOD CAUSE EXISTS TO EXTEND TIME FOR SERVICE FOR 60 DAYS AFTER AN ORDER ISSUES DISPOSING OF MY PENDING RULE 4(F)(3) & 28 USC 1915(d) MOTIONS; OR UNTIL THE MARSHAL PERFECTS SERVICE. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE & ACCURATE. EXECUTED THIS 31<sup>ST</sup> DAY OF OCTOBER, 2023

RESPECTFULLY SUBMITTED,  


CALEB L. MCWILLVARY, PRO SE  
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P.O. Box 861 TRENTON, NJ 08625



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08625

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CLERK, U.S. DISTRICT COURT  
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CENTRAL DISTRICT OF CALIFORNIA  
DEPUTY  
BY



HON. STEVE KIM, USAJ  
USDC - CD CA  
COURTROOM 540, 5TH FLOOR  
255 E. TEMPLE ST, #1  
LOS ANGELES, CA

*[Handwritten signature]*

90017  
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LEGAL MAIL

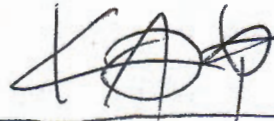
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